

Clinton D. Proctor,

Plaintiff,

vs.

Andrew Saul, Commissioner
of Social Security Administration,

Defendant.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling. On October 2, 2019, the Magistrate Judge issued a Report and Recommendation in which she determined that the Administrative Law Judge (ALJ) (1) erred to the extent that she considered Plaintiff's noncompliance as a factor in evaluating his subjective statements as to the severity of his symptoms; (2) made a residual functional capacity assessment that was unsupported by substantial evidence; and (3) presented a hypothetical question to the vocational expert that did not adequately account for Plaintiff's medically-determinable impairments. Accordingly, the Magistrate Judge recommended that the matter be reversed and remanded for further administrative proceedings. On October 16, 2019, the Commissioner filed a notice of not filing objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The Commissioner’s decision to deny benefits is reversed and remanded under sentence four of 42 U.S.C. § 405(g) for further administrative action.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

October 28, 2019